

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVID PICKELHAUPT

Plaintiff,

Case No. 05-74660

v.

HONORABLE ARTHUR J. TARNOW  
UNITED STATES DISTRICT JUDGE

ANDREW JACKSON,

MAGISTRATE JUDGE  
VIRGINIA M. MORGAN

Defendant.

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**ORDER ADOPTING MAGISTRATE'S REPORT & RECOMMENDATION [D/E # 15],  
DENYING DEFENDANT ANDREW JACKSON'S  
MOTION TO DISMISS [D/E # 12]**

Before the Court is the Magistrate Judge's Report and Recommendation addressing Defendant's motion to dismiss pursuant to 42. U.S.C. § 1997e(a) for Plaintiff's failure to exhaust administrative remedies.

Having reviewed Defendant's motion, the Magistrate's Report and Recommendation, Defendant's Objections to the Report and Recommendation, and Plaintiff's Objections to Defendant's Objections this Court **ACCEPTS AND ENTERS** the Magistrate's Reports and Recommendations as the findings and conclusions of the Court. Defendant's Objections simply recycle the same arguments presented in their motion to dismiss. Accordingly, Defendant's Motion for Summary Judgment is **DENIED**.

**IT IS FURTHER ORDERED** that Plaintiff, presently proceeding *in propria persona* in this matter, would greatly benefit from the assistance of counsel. Thus, this Court shall seek counsel to be appointed to assist in presenting Plaintiff's claims. Once *pro bono* counsel has been appointed, Plaintiff's attorney will be permitted to file an amended complaint within a reasonable amount of time.

05-74660

**IT IS SO ORDERED.**

s/Arthur J. Tarnow  
Arthur J. Tarnow  
United States District Judge

Dated: December 4, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 4, 2006, by electronic and/or ordinary mail.

s/Theresa E. Taylor  
Case Manager